



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Debbie Nuss

NOV 17 2016

Manhattan, KS 66502

RE: MUR 6972

Dear Ms. Nuss:

The Federal Election Commission reviewed the allegations in your complaint received by the Commission on October 19, 2015. Based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close the file in this matter. Accordingly, the Commission closed its file on November 9, 2016. The Factual and Legal Analysis, which more fully explains the Commission's finding, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Jerry Moran MUR 6972
Moran for Kansas
and Timothy Gottschalk, as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed by Debbie Nuss ("Complainant") on October 19, 2015, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by Jerry Moran, Moran for Kansas, and Timothy Gottschalk in his official capacity as treasurer (collectively the "Committee"). It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

The Complainant alleges that the Committee violated the Act when it failed to disclose disbursements. Specifically, the complaint alleges that the Committee failed to include its Schedule B, report of disbursements, along with its 2015 July Quarterly report, filed on July 14, 2015.¹

The Committee responds that it timely filed its 2015 July Quarterly report, including its Schedule B report of itemized disbursements.² However, the Committee maintains that after it received notice of the Complaint, it discovered that only 201 of the report's 409 pages were

¹ Compl. at 1 (Oct. 19, 2015). The Complainant states that the Committee failed to file its report of expenditures. However, the complaint specifically refers to a Schedule B, which is the report of disbursements, and cites to the statute and regulations requiring reports of disbursements. Further, the information missing from the report in question was the Committee's report of disbursements.

² Resp. at 1 (Nov. 9, 2015).

1 included in the version of the disclosure report on the Commission's website.³ The Committee
2 states that it immediately contacted the Commission's Reports Analysis Division ("RAD") to
3 determine why a portion of its report was omitted from the Commission's database.⁴ The
4 Committee avers that RAD instructed the Committee to file the missing pages with the Secretary
5 of the Senate, along with the summary pages. The Committee also contends that it was
6 instructed that the missing pages would be treated as an original filing rather than an amended
7 filing.⁵ The Committee believed that this new submission would resolve the alleged reporting
8 violation.⁶ The Committee states that on October 16, 2015, it submitted the missing pages to the
9 Secretary of the Senate.⁷ The Committee states that it still does not know why the missing pages
10 were not uploaded with the first filing of the report.⁸

11 The Act and the Commission's regulations require each treasurer of a political committee
12 to file reports of receipts and disbursements.⁹ It is not clear as to why the initial filing, which was
13 transferred by the Senate, did not include the Committee's full report. However, after the
14 Committee learned of the missing information, it immediately worked with RAD to file its
15 Schedule B.¹⁰

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 1-2.

⁷ *Id.* at 2.

⁸ *Id.*

⁹ 52 U.S.C. § 30104(a) and (b); 11 C.F.R. §§ 104.1, 104.3(a) and (b).

¹⁰ The Committee also sent the missing information to the Complainant, who contacted the Commission on November 12, 2015, to let us know that the Committee had provided the missing information. Compl. Supp. (Nov. 12, 2015).

1 Therefore, in furtherance of the Commission's priorities, relative to other matters pending
2 on the Enforcement docket, and in light of the Committee's corrective actions, the Commission
3 exercised its prosecutorial discretion and dismissed this matter.¹¹

¹¹ *Heckler v. Chaney*, 470 U.S. 821 (1985).